

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

ROBERT WHARTON,

Petitioner,

v.

DONALD T. VAUGHN, et al.,

Respondents.

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CIVIL ACTION

No. 01-6049

CAPITAL CASE

ORDER

AND NOW, on this ____ day of February, 2019, upon consideration of the order of the Court of Appeals for the Third Circuit dated January 11, 2018, affirming this Court's denial of habeas corpus relief as to the guilt phase of petitioner's trial, and vacating its denial of relief on the claim that petitioner's counsel was ineffective at his second penalty hearing for failing to investigate and present evidence of his prison adjustment pursuant to *Skipper v. South Carolina*, and remanding for further proceedings on that claim,

AND upon a careful and independent review of all of the parties' submissions and all prior proceedings in this matter, it is hereby ORDERED that:

The petition for a writ of habeas corpus is granted in part, as to the sentences of death, on the ground of counsel's ineffectiveness at the second penalty hearing. Petitioner shall be released from custody unless the Commonwealth of Pennsylvania grants him a new sentencing hearing or resents him to life without parole within 180 days. This deadline may be extended by this Court for good cause shown.

BY THE COURT:

Mitchell S. Goldberg, U.S.D.J.